IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

FAO No. 109 of 2000.

Date of Decision: 17th May, 2006.

Ramesh Chand Jaswal ..Appellant.

Versus.

Smt.Darshna Devi ..Respondent.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for Reporting?

For the Appellant: **Pt.Om Parkash, Advocate.**

For the Respondent: **Mr.V.D.Khidtta, Advocate.**

Deepak Gupta, J.(Oral)

This appeal under Section 28 of the Hindu Marriage Act is directed against the order of the learned District Judge, Kangra at Dharamshala in H.M.A.P. No.20-N/III-1998 decided on 1.11.1999 whereby the maintenance awarded to the respondent-wife was increased from Rs.450/- per month to Rs.850/- per month.

The brief facts are that in case Darshna Devi vs. Ramesh Chand Jaswal permanent alimony was granted to the wife on 20.4.1993 @ Rs.450/- per month. Thereafter on 23.4.1998 she moved an application for modification of the said order on the ground that five years have elapsed and that the income of the husband who was working as driver in the BSF had increased to Rs.4000/- per month and in addition thereto he was earning Rs.1000/- per month from agricultural income. The income of the husband was not proved

on record and the learned District Judge came to the conclusion that even with regard to the income from the land though there is proof that he owns land there is no proof of income from the said land. However, the learned trial Court held that keeping in view the increase in salaries it would not be improper to assess the salary of the husband between Rs.3600/- to Rs.4000/- per month and has accordingly awarded maintenance @ Rs.850/- per month.

In my opinion the order is very just and reasonable and the amount of permanent alimony awarded is in fact on the conservative side. The husband himself did not produce his salary certificate to show what were his total emoluments received by him and as such an adverse inference should have been drawn against him. This Court cannot loose sight of the fact that after the recommendations of the 5th Pay Commission the salaries of all the government servants have increased considerably from 1.1.1996.. This increase must also be there in the pay of the appellant-husband. As such the order passed by the learned trial Court calls for no interference. Appeal is accordingly dismissed with no order as to costs.

May 17, 2006. **(Deepak Gupta),**
PV **Judge.**